

# United States District Court

## EASTERN DISTRICT OF WISCONSIN

### COURT MINUTES

HON. DAVID E. JONES, presiding.

DATE: September 17, 2018 at 1:30 p.m.

CASE NO. 18-CR-62

UNITED STATES v. BRIAN L. GANOS,

MARK F. SPINDLER, SONAG COMPANY INC.,

NUVO CONSTRUCTION COMPANY, INC.

PROCEEDING: TELEPHONIC MOTION HEARING

UNITED STATES by: Matthew D. Krueger, Zachary J. Corey

DEFENDANTS: BRIAN L. GANOS, MARK F. SPINDLER,

SONAG COMPANY INC., NUVO CONSTRUCTION COMPANY, INC., not present, and by

ATTORNEYS: Stephen Hurley for Brian L. Ganos

Brian T. Fahl for Mark F. Spindler

Dean A. Strang for Sonag Company, Inc.

Dennis P. Coffey for Nuvo Construction Company, Inc. - not present

Randall Schneider for Movant State of Wisconsin

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Here to discuss Motion for Evidentiary Hearing (ECF No. 39), Motion to Quash (ECF No. 53), and Motion to Quash (ECF No. 55).

Court notes Mr. Coffey is not present and asks Mr. Strang to inform him of the events at today's hearing.

COURT:

**Motions to Quash (ECF. No 53 & 55):**

- inclined to deny motions to quash
- feel Deft's have established potential relevance
- do not feel is a fishing expedition - seeking target information
- feel requesting party has narrowed request and done what they need to do - are seeking relevant information
- feel subpoenas are appropriate under Rule 17

Motions will be DENIED

Mr. Schneider:

- elections commission needs a little more time - will find out how long need - anticipate weeks, not months

Mr. Strang:

- briefing is complete - did file a response

- if and when subpoenas are enforced, have an agreement

- no dispute with protective order if subpoenas are enforced

- once Mr. Schneider knows when state can comply, can figure out further time line

GOVT:

- as to protective order, one issue still in dispute, Govt asked for small edit to protective order to permit Govt to share materials with case agents as necessary

- novel situation - not sure where this is going to go

- one section of 12 county residents, and then another section of 12 county residents - requesting many lines of data - Defense proposing to work with expert for geo-coding analysis - then propose analysis and then argue fair cross section isn't met - all data currently seeking only going to one section of the pool - need to compare to second section - not sure how will accomplish this - need a whole separate analysis

- concerned about the time this will take and that there are multiple steps in this process - foresee a lot of data - experts are expensive

- think would be useful to share with case agent as necessary and continue to ask for this change

- November is an election season - shouldn't underestimate the burden this will place on the state

- request Court set a status in case this becomes more cumbersome than anticipated

Mr. Strang:

- soft objection - without showing of what agents will bring to issue of jury selection - didn't want to expand more people in protective order than need to

- agree there may be a lot of data

COURT:

- agree change requested does make sense

- ask what Govt is proposing be added to the protective order

**Motion to Suppress (ECF. No. 39):**

COURT:

- do not believe need an Evidentiary Hearing nor a Franks Hearing to resolve this matter

- not sure was false statement or omission - no reckless disregard for truth

- manner which documents came into possession by the US - don't need any more evidentiary evidence on this - have all the evidentiary material need to resolve this motion

- have not resolved motion yet - anticipate R&R's will be filed in early October

Mr. Hurley:

- nothing to add

GOVT:

- speedy trial clock tolled due to the motions

- trial prep would be significant - have multiple witnesses and will be coming from out of town

Mr. Strang:

- no scheduling order by Judge Pepper yet

- subpoena compliance moved to September 10 - State now needs more time but not sure how much time yet

- court needs to enter an order

- request tell Judge Pepper now that February may not be a realistic trial date

COURT:

- will try and keep case on track for February trial date - may not happen but hesitate to move at this point

- Status Conference set for Thursday 9/20/2018 is removed from the court's calendar

**Status Conference (Counsel Only) set for: 10/2/2018 at 2:30 PM**